



**CUSHMAN DARBY & CUSHMAN  
1100 NEW YORK AVENUE  
INTELLECTUAL PROPERTY GROUP  
EAST TOWER NINTH FLOOR  
WASHINGTON DC 20005-3918**

**MAILED**  
**OCT 11 2011**  
**OFFICE OF PETITIONS**

In re Patent No. 5,964,586	:	
Issued: October 12, 1999	:	
Application No. 08/817,567	:	NOTICE
Filed: April 11, 1997	:	
Attorney Docket No. 237370/C9296	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed August 31, 2011.

On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Additionally, the Power of Attorney and Change of Correspondence Address submitted with the instant petition is hereby not accepted. Petitioner has failed to submit a proper Statement Under 37 CFR 3.73(b). Petitioner has not provided the assignee percent of interest of ownership on form PTO/SB/96. Therefore the request for Power of Attorney and Change of Correspondence Address cannot be accepted at this time.

Currently, David M. Ovedovitz does not have power of attorney or authorization of agent regarding this patent. Therefore, in accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. While, a courtesy

copy of this decision is being mailed to the address given on the petition, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

/Joan Olszewski/  
Joan Olszewski  
Petitions Examiner  
Office of Petitions

cc: David M. Ovedovitz  
Wenderoth, Lind & Ponack, L.L.P.  
103015th Street, N.W.  
Suite 400 East  
Washington, D.C. 20005-1503